IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 5235 of 1999
with
CIVIL APPLICATION NO. 10736 OF 1999

For Approval and Signature:

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ROSHANBEN UTTAMBAHI PATEL
Versus
ABDUL VAHAB ABDUL SHAIKH

Appearance:
1. First Appeal No. 5235 of 1999
MS NIRMALA J JHALA for Petitioner No. 1
..... for Respondent No. 1-2
MR AJAY R MEHTA for Respondent No. 3

CORAM : MR.JUSTICE K.M.MEHTA

Date of decision: 12/04/2002

ORAL JUDGEMENT

1. Roshanben Uttambhai Patel-appellant has filed appeal against judgement and awarded dated 30.1.1999 passed by the Motor Accident Claims Tribunal, Bharuch in Motor Accident Claims Petition No. 244 of 1996. The learned judge by the impugned judgement has awarded a sum of Rs. 30,250/- as compensation with 12% interest from the date of the application till date of payment.

2. Since there is a delay in filing the appeal, the appellant has filed Civil Application No. 10736 of 1999 for condonation of delay.

3. I have heard learned counsel for the applicant. I have also gone through the application for condonation of delay. The applicant has given sufficient reasons for delay in filing the appeal. In view of the same, delay is condoned. The application is allowed. Rule is made absolute.

4. As regards merit of the matter, the learned judge has held that the claimant has sustained injuries due to rashness and negligence on the part of the driver of the vehicle involved in the accident. He has also come to the conclusion that the claimant has sustained fracture injury on the left leg and she was admitted to hospital. She has spent some amounts for medical treatment and she has claimed Rs. 5,000/- before the Tribunal. She has produced medical bills in this behalf.

5. The learned judge has held that the applicant/claimant has proved that she sustained injuries due to vehicular accident. The learned judge has held that the claimant had produced disability certificate and agreed to reduce the disability to 5%. Therefore, the earning capacity is also reduced in this behalf. The claimant was carrying on the work of selling vegetables and as per her say she was earning Rs. 40/- to Rs. 50/per day. Therefore, the learned judge has held that the claimant is entitled to get a sum of Rs. 8,100/under the head of future loss of income. The learned judge has also awarded a sum of Rs. 5,000/- under the head medical treatment. The learned judge has further awarded a sum of Rs. 12,000/- towards pain, shocking and sufferings. In all the learned judge has awarded a sum of Rs. 30,250/-.

6. I have gone through the submissions made by the learned counsel for the appellant and also the judgement under appeal. The learned judge has given a very cogent and convincing reason for awarding compensation of Rs.

30,250/-. I do not find any reason to interfere with the judgement and award of the tribunal.

7. In the result, the appeal is dismissed with no order as to costs.

(K.M. MEHTA, J)

(pkn)